

1 WESLEY E. OVERSON (CA SBN 154737)
WOverson@mofo.com
2 DANIEL P. MUINO (CA SBN 209624)
DMuino@mofo.com
3 DAISY DANIELLE COLEMAN (CA SBN 248456)
DColeman@mofo.com
4 MORRISON & FOERSTER LLP
425 Market Street
5 San Francisco, California 94105-2482
Telephone: 415.268.7000
6 Facsimile: 415.268.7522

7 Attorneys for Defendant
BAYER CORPORATION
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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 SAN FRANCISCO TECHNOLOGY INC.,

14
15 Plaintiff,

16 v.

17 THE GLAD PRODUCTS COMPANY, BAJER
DESIGN & MARKETING INC., BAYER
18 CORPORATION, BRIGHT IMAGE
CORPORATION, CHURCH & DWIGHT CO.
19 INC., COLGATE-PALMOLIVE COMPANY,
COMBE INCORPORATED, THE DIAL
20 CORPORATION, EXERGEN CORPORATION,
GLAXOSMITHKLINE LLC, HI-TECH
21 PHARMACAL CO. INC., JOHNSON
PRODUCTS COMPANY INC., MAYBELLINE
22 LLC, MCNEIL-PPC INC., MEDTECH
PRODUCTS INC., PLAYTEX PRODUCTS
23 INC., RECKITT BENCKISER INC., ROCHE
DIAGNOSTICS CORPORATION,
24 SOFTSHEEN-CARSON LLC, SUN PRODUCTS
CORPORATION, SUNSTAR AMERICAS INC.,

25 Defendants.
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Case No.: CV10-00966 JF PVT

Judge: Hon. Jeremy Fogel
Date: July 8, 2010
Time: 1:30 p.m.
Courtroom: 3, 5th Floor

**REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF
DEFENDANT BAYER
CORPORATION'S REPLY IN
SUPPORT OF MOTION TO STAY**

Complaint Filed: March 5, 2010

1 Defendant Bayer Corporation (“Bayer”) requests that this Court take judicial notice of the
2 following exhibits under Rule 201 of the Federal Rules of Evidence in connection with Bayer’s
3 Reply in Support of its Motion to Stay:

4 RJN8 — Attached as Exhibit H is a true and correct copy of an Order dated June 9, 2010,
5 in the case of *Hungerpillar v. Energizer Holdings, Inc.*, No. 2:10-cv-290-AKK, slip op.
6 (N.D. Ala. June 9, 2010) (Kallon, J.), which stayed the proceedings pending resolution of the
7 Federal Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-
8 1430, 2009-1453.

9 RJN9 — Attached as Exhibit I is a true and correct copy of an Order dated June 9, 2010,
10 in the case of *Englehardt v. Costco Wholesale Corp.*, No. 1:10-cv-01424, minute entry (N.D. Ill.
11 June 9, 2010) (Kocoras, J.), which stayed the proceedings pending resolution of the Federal
12 Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-1430,
13 2009-1453.

14 RJN10 — Attached as Exhibit J is a true and correct copy of a Minute Entry dated
15 June 3, 2010, in the case of *Simonian v. Mead Westvaco Corp.*, No. 1:10-cv-01217, minute entry
16 (N.D. Ill. June 3, 2010) (Castillo, J.), which stayed the proceedings pending resolution of the
17 Federal Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-
18 1430, 2009-1453.

19 RJN11 — Attached as Exhibit K is a true and correct copy of a Minute Entry dated
20 June 2, 2010, in the case of *Simonian v. Kimberly-Clark Corp.*, No. 1:10-cv-01214, minute entry
21 (N.D. Ill. June 2, 2010) (Kocoras, J.), which stayed the proceedings pending resolution of the
22 Federal Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-
23 1430, 2009-1453.

24 RJN12 — Attached as Exhibit L is a true and correct copy of an Order dated
25 May 24, 2010, in the case of *O & G SearchQuest, Inc. v. McNeill-PPC, Inc.*, No. H-10-1004, slip
26 op. (S.D. Tex. May 24, 2010) (Atlas, J.), which stayed the proceedings pending resolution of the
27 Federal Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-
28 1430, 2009-1453.

1 RJN13 — Attached as Exhibit M is a true and correct copy of an Order dated
2 May 20, 2010, in the case of *Hollander v. B. Braun Medical, Inc.*, No. 10-835, slip op. (E.D. Pa.
3 May 20, 2010) (McLaughlin, J.), which stayed the proceedings pending resolution of the Federal
4 Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-1430,
5 2009-1453.

6 RJN14 — Attached as Exhibit N is a true and correct copy of a Minute Entry dated
7 May 18, 2010, in the case of *Heathcote Holdings Corp. v. Clorox Co.*, No. 1:10-cv-00942, minute
8 entry (N.D. Ill. May 18, 2010) (Norgle, J.), which stayed the proceedings pending resolution of
9 the Federal Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428,
10 2009-1430, 2009-1453.

11 RJN15 — Attached as Exhibit O is a true and correct copy of an Order dated
12 May 17, 2010, in the case of *O & G SearchQuest, Inc. v. Procter & Gamble Co.*, No. H-10-1164,
13 slip op. (S.D. Tex. May 17, 2010) (Atlas, J.), which stayed the proceedings pending resolution of
14 the Federal Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428,
15 2009-1430, 2009-1453.

16 RJN16 — Attached as Exhibit P is a true and correct copy of an Order dated
17 May 17, 2010, in the case of *Hirschhorn v. Church & Dwight Co*, No. 2:10-cv-1156-JF, slip op.
18 (E.D. Pa. May 17, 2010) (Fullam, J.), which stayed the proceedings pending resolution of the
19 Federal Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-
20 1430, 2009-1453.

21 RJN17 — Attached as Exhibit Q is a true and correct copy of a Minute Entry dated
22 May 14, 2010, in the case of *Simonian v. L'Oreal USA Creative, Inc.*, No. 10 C 1345, minute
23 entry (N.D. Ill. May 14, 2010) (Coar, J.), which stayed the proceedings pending resolution of the
24 Federal Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-
25 1430, 2009-1453.

26 RJN18 — Attached as Exhibit R is a true and correct copy of an Order dated
27 May 13, 2010, in the case of *Creston Elec., Inc. v. Lutron Elec. Co.*, No. 10-01390, slip op.
28 (D. N.J. May 13, 2010) (Cavanaugh, J.), which stayed the proceedings pending resolution of the

1 Federal Circuit appeal in *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-
2 1430, 2009-1453.

3 RJN19 — Attached as Exhibit S is a true and correct copy of an Order dated May 6, 2010,
4 in the case of *Hollander v. Hospira, Inc.*, No. 10-235, slip op. (E.D. Pa. May 6, 2010) (Dubois,
5 J.), which stayed the proceedings pending resolution of the Federal Circuit appeal in *Stauffer v.*
6 *Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-1430, 2009-1453.

7 RJN20 — Attached as Exhibit T is a true and correct copy of an Order dated May 5, 2010,
8 in the case of *Hollander v. Timex Group USA, Inc.*, No. 10-429, slip op. (E.D. Pa. May 5, 2010)
9 (Schiler, J.), which stayed the proceedings pending resolution of the Federal Circuit appeal in
10 *Stauffer v. Brooks Bros. Inc.*, Fed. Cir. Appeal Nos. 2009-1428, 2009-1430, 2009-1453.

11 “A court shall take judicial notice if requested by a party and supplied with the necessary
12 information.” Fed. R. Evid. 201(d). A fact is judicially noticeable if it is “not subject to
13 reasonable dispute in that it is . . . capable of accurate and ready determination by resort to
14 sources whose accuracy cannot be questioned.” Fed. R. Evid. 201(b)(2). Courts regularly take
15 judicial notice, under Rule 201, of judgments, orders, actions, records and oral argument
16 transcripts from other courts because such facts are capable of accurate and ready determination
17 by resort to reliable sources. *See, e.g., Engine Mfrs. Ass’n v. S. Coast Air Quality Mgmt. Dist.*,
18 498 F.3d 1031, 1039 n.2 (9th Cir. 2007) (taking judicial notice of oral argument transcript);
19 *Holder v. Holder*, 305 F.3d 854, 866 (9th Cir. 2002) (taking judicial notice of a state court
20 decision and the briefs filed in that court); *Conopco, Inc. v. Roll Int’l*, 231 F.3d 82, 86 n.3 (2nd
21 Cir. 2000) (taking judicial notice of judgment and Notice of Appeal from related state court
22 action); *Mike’s Train House, Inc. v. Lionel, LLC*, 472 F.3d 398, 411-12 (6th Cir. 2006) (citing a
23 string of authorities that have taken judicial notice of judgment and/or records from other cases).

24 Here, Bayer’s request for judicial notice of the orders and minute entries attached hereto
25 should be granted because the documents are matters of public record and are capable of accurate
26 and ready verification by resort to sources whose accuracy cannot be questioned.

1 Dated: June 24, 2010

Respectfully submitted,

2 By: /s/ Daniel P. Muino

3 WESLEY E. OVERSON
4 DANIEL P. MUINO
5 DAISY DANIELLE COLEMAN

6 Attorneys for Defendant
7 BAYER CORPORATION
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